

# Order

Michigan Supreme Court  
Lansing, Michigan

September 17, 2014

Robert P. Young, Jr.,  
Chief Justice

149173

Michael F. Cavanagh  
Stephen J. Markman  
Mary Beth Kelly  
Brian K. Zahra  
Bridget M. McCormack  
David F. Viviano,  
Justices

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

v

SC: 149173  
COA: 320286  
Genesee CC: 13-033600-FH

KELLY ANNETTE JACKSON,  
Defendant-Appellant.

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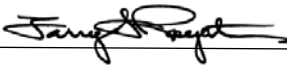
On order of the Court, the application for leave to appeal the April 1, 2014 order of the Court of Appeals is considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we VACATE the sentence of the Genesee Circuit Court, and we REMAND this case to that court for resentencing. OV 2, MCL 777.32, must be scored at 0 points where the incendiary device was part of the process of manufacturing methamphetamine and was not possessed or used as a weapon. *People v Crabtree*, 493 Mich 878 (2012), citing *People v Ball*, 297 Mich App 121 (2012). In addition, the five-point score for OV 15, MCL 777.45, was proper on the ground that there was evidence of delivery of the drugs. MCL 777.45(1)(h). A proper reading of MCL 777.45(1)(h) reveals two alternative bases for scoring that OV at five points: (1) when the offense involved the delivery or possession with intent to deliver marihuana or any other controlled substance or counterfeit controlled substance; and (2) when the offense involved possession of controlled substances or counterfeit controlled substances having a value or under such circumstances as to indicate trafficking. In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining question presented should be reviewed by this Court.



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I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

September 17, 2014

  
Clerk